

Board of Adjustment



Minutes

City Council Chambers, Lower Level
July 13, 2010

Board Members Present:

Garrett McCray, Chair
Nicholas Labadie
Greg Hitchens
Dianne von Borstel
Tyler Stradling

Staff Present:

Angelica Guevara
Mia Lozano-Helland
Wahid Alam
Tom Ellsworth
Gordon Sheffield

Board Members Absent:

Cameron Jones - excused

Others Present:

Greg Pender Jim Gleason
Dale Grafe Dennis Chapin
Alan Phelps Glen Blackmore
Sally Walker Terri McCook
Crystal Russell Tricia Schaeffer
Lorraine Corsaro John Balcer
Laurent Teichman
Jonathan Walker
Susan Tibshraeny
Stephen Schwartz
Nunthaporn Treekamol

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 9:30 p.m., the following items were considered and recorded.

Study Session 4:30 p.m.

- A. The items scheduled for the Board's Public Hearing were discussed.
- B. A Zoning Ordinance update was provided by Mr. Sheffield. He stated he anticipates that the final draft of Zoning Ordinance Update will be acted upon by the Planning and Zoning Board at the August meeting. He asked the Board to forward any comments or questions they might have as soon as possible. Chair McCray asked about the feedback received. Mr. Sheffield stated that most of the questions came from the Home Builders Assoc., and some comments were received from various workshops held throughout the City.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the June 8, 2010 Meeting A motion was made to approve the minutes by Boardmember von Borstel and seconded by Boardmember Labadie. Vote: Passed 5-0
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Hitchens and seconded by Boardmember Stradling. Vote: Passed 5-0

**Board of Adjustment Meeting
July 13, 2010**

Case No.: BA10-013

Location: 256 East Broadway Road (PLN2010-00058)

Subject: Requesting a Special Use Permit to allow auto repair and vehicle sales in the TCB-2 zoning district. **(Continued from the June 8, 2010 meeting)**

Decision: Continued to the August 10, 2010 meeting.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens seconded by Boardmember Stradling to continue BA10-013 to the August 10, 2010 meeting.

Vote: Passed 5-0

Board of Adjustment Meeting July 13, 2010

Case No.: BA10-020

Location: 845 East Grandview Street (PLN2010-00081)

Subject: Requesting a variance to: 1) allow a shade structure encroach into a required setback; 2) a detached accessory structure to exceed the maximum height allowed in a side yard; and 3) a detached accessory structure to exceed the maximum floor area allowed in a side yard, all in the R1-7 zoning district. **(Continued from the June 8, 2010 meeting)**

Decision: Approved

Summary: John Balcer, the property owner, represented the case and explained that his lot has special circumstances and is much deeper than what is considered typical for a lot in his subdivision. He agreed to make changes related to the minimum 6' distance from the house and a reduction of the total square footage to 376.

Lorraine Corsaro, representing an adjacent neighbor, asked about the changes proposed by the owner and stated that she still has concerns with the height, size, proximity, and the electrical work done without inspections. Boardmember Labadie asked Ms. Corsaro if she had had any additional conversations with the Balcers. She replied that she had not spoken to them since the June 8th, 2010 meeting.

Tom Ellsworth provided the staff report and analysis explaining that the owner will remove 9.5 feet of the canopy to qualify it as a detached structure at 10' from the house. He further explained the special circumstances related to the length and size of the lot that supported staff's recommendation of approval.

Boardmember Hitchens commented on the analysis provided and his agreement with the special circumstance.

Boardmember Labadie asked if the structure has been modified as of yet. The applicant replied not yet. He further asked for additional clarification. Mr. Ellsworth provided an explanation.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember von Borstel to approve BA10-020 with the following staff conditions.

Vote: Passed 5-0

Findings:

- 1.1** The subject property is located within an R1-7 zoning district. The required side yard setback for the west property line of this lot is 5'. The structure encroaches into the required setback 4' 3" with the edge of the overhang at 9" from the property line.
- 1.2** The existing covered patio was constructed 6" from the existing home and was considered an attached addition to the home.
- 1.3** The applicant made changes to the site plan and will cut back the existing structure to 10' from the

Board of Adjustment Meeting

July 13, 2010

home qualifying it as a detached structure. Detached structures are allowed within the side yard setback at a maximum height of eight feet (8') with a maximum square footage of 150 sf.

- 1.4** As presented the detached structure has a maximum height of 9.8' and an area of 376 sf. A detached accessory structure of this size is allowed in the side yard setback within the rear quarter of the lot.
- 1.5** The minimum lot depth in the R1-7 zoning district is 94' average lot depths within this subdivision are approximately on average are between 105' and 125'. The unusual shape of this lot is created by the configuration of the Grandview alignment.
- 1.6** The lot depth of this parcel, which is caused by the configuration of Grandview Street, is not typical for the area. If this lot were to meet typical lot depths the proximity of the detached structure, relative to the back of the house, would meet the zoning code requirements.

**Board of Adjustment Meeting
July 13, 2010**

Case No.: BA10-021

Location: 1336 East Harvest Street (PLN2010-00088)

Subject: Requesting a variance to allow an addition to encroach into a required setback in the R1-6 zoning district. **(Continued from the June 8, 2010 meeting)**

Decision: Approved

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens seconded by Boardmember Stradling to approve BA10-021 with the following staff conditions.

1. *Compliance with the site plan submitted.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: 5-0

Findings:

- 1.1 The applicant requested a variance to allow a storage area to be constructed with a corner of the building encroaching into the 10-foot side yard setback in the R1-6 zoning district.
- 1.2 Current Code requires a minimum side yard setback of 5-feet on one side and 10-feet on the other. The 10' side yard setback is to provide rear yard access. This property is on a corner and therefore rear yard access is provided through the side if necessary.
- 1.3 There are special circumstances that apply to this request that are pre-existing and not self-imposed. Strict compliance with the Code requiring the property owner to adhere to the 10-foot side setback, will deprive the property of privileges enjoyed by other properties in the same zoning district. This variance does not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.

* * * *

**Board of Adjustment Meeting
July 13, 2010**

Case No.: BA10-030

Location: 313 South Pioneer Street (PLN2010-00106)

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the division of land in the R-3 zoning district. **(Continued from the June 8, 2010 meeting)**

Decision: Approved

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens seconded by Boardmember Stradling to approve BA10-030 with the following staff conditions.

1. *Compliance with the site and landscape plans submitted, except as modified by the conditions below.*
2. *Provide a minimum of 9' x 18' parking spaces.*
3. *Provide landscape material quantities adjacent to the parking area and the buildings as shown on the landscape plan provided.*
4. *Applicant to pave all parking spaces.*
5. *Compliance with all requirements of the Land Split.*
6. *Applicant shall have reciprocal parking and access agreement prepared by an Arizona Registrant and recorded with Maricopa County.*
7. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: 5-0

Findings:

- 1.1 This Substantial Conformance Improvement Permit (SCIP) allows improvements and the division of a parcel containing four duplex buildings.
- 1.2 The parcel is approximately 14,000 sq. ft. and is legitimately split into two 7,019 sq. ft. lots. The deviations allow reductions to the setbacks and building separation, the applicant is providing landscape material adjacent to the parking area and surrounding the buildings. In addition, there will be four additional paved parking spaces in order to gain compliance with the parking requirements.
- 1.3 The improvements to this existing non-conforming site constitute the greatest degree of compliance with current development standards that can be attained without requiring the demolition of buildings or removal of existing dwelling units. The approved deviations allow the applicant to obtain separate water meters for individual units and the creation of an additional lot without intensification or additions on the site.
- 1.4 Sufficient justification existed for the SCIP. The applicant provided a site plan that met the intent of current development standards and parking requirements allowing the division of the parcel.

**Board of Adjustment Meeting
July 13, 2010**

Case No.: BA10-041 (PLN2010-00259)

Location: 6003, 6033, 6063 East Arbor Avenue

Subject: Requesting a Special Use Permit to allow the expansion of an Assisted Living Facility in the R-4 zoning district.

Decision: Approved

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-041 with the following staff conditions.

Vote: Passed 5-0

Findings:

- 1.1** The applicant is building a single story 31 bed assisted living facility at the SEC of Recker Road and Arbor Avenue. It is adjacent to the existing Arbor Rose facility built in 1999.
- 1.2** The Planning and Zoning board approved the rezoning of this parcel from C-3 to R-4 zoning district at the June 16, 2010 public hearing. City Council action occurred on July 8, 2010.
- 1.3** The approved Special Use Permit allows the assisted living facility in the R-4 zoning district.
- 1.4** The 1.35 acre site is bordered by the East Valley Digestive Center to the north, a mobile home park to the south and west, and the Arbor Rose Assisted Living Facility to the east.
- 1.5** The assisted living facility is compatible with adjacent developments, and is complimentary and not detrimental to surrounding properties.

* * * *

**Board of Adjustment Meeting
July 13, 2010**

Case No.: BA10-042

Location: 1621 North Pasadena (PLN2010-00153)

Subject: Requesting a Special Use Permit to allow a Commercial Communication Tower in the R1-6 zoning district.

Decision: Approved

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-042 with the following conditions:

1. *Compliance with the site plans submitted except as modified by the following conditions below.*
2. *The proposed CCT shall be a monopine..*
3. *The monopine shall have a maximum height of sixty-five (65') at the top of the monopine and seventy-two feet at the top of needles and branches.*
4. *The antennas shall be covered with pine needle socks to match the pine needle density and color the monopine.*
5. *The antennas will be screened with a minimum of 2.5 branches per foot of height.*
6. *The antennas shall not exceed 4'-2" in length, 1'-1" in width, and 4" in depth.*
7. *The monopine should taper towards the top to resemble the appearance of a natural pine tree.*
8. *The microwave dishes shall not exceed 2'-2" in diameter.*
9. *The antennas shall be painted to match the color of the needles and branches of the monopine.*
10. *The antenna standoff assembly shall not extend more than 8" from the pole.*
11. *The operator of the monopine shall respond and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
12. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*
13. *Provide revised site plan to relocate the proposed monopine and associated lease area for the ground equipment compatible with the approved site plan (BA04-041) for staff approval.*

Vote: Passed 5-0

Findings:

- 1.1 The 72-foot high Commercial Communication Tower is located in the south east corner of the Gateway Bible Church, adjacent to a sidewalk along the south side of an existing building. The lease area is screened by 8 foot tall CMU wall.
- 1.2 The property is zoned R1-6. This Special Use Permit (SUP) is required for CCT's to be erected in this zoning district.
- 1.3 The CCT is compatible with and not detrimental to surrounding properties and is consistent with the General Plan and other recognized plans and City Council policies, including the Commercial

Board of Adjustment Meeting

July 13, 2010

Communication Tower Guidelines, adopted in 1997.

- 1.4** The array of the monopine consists of three sectors with three antennas, radio heads and three microwave dishes. The antennas measure 4'2" L x 1'1" W x 4" D and microwave dishes 2'-2" in diameter.
- 1.5** The applicant's justification indicated the need for this site to provide coverage to the residents and businesses in the area and the selection of monopine because there are large existing pine trees within 350' of the location.
- 1.6** Based on the submitted plans, identified as AZ-PHX0816B "GATEWAY CHURCH MONOPINE" and dated April 28, 2010 the CCT and associated ground mounted equipment are located within a 150 square foot lease area. The lease area is surrounded by an eight-foot tall CMU screen wall painted to be compatible with the existing buildings on the site.
- 1.7** The location of the monopine complies with the Commercial Communications Towers Guidelines and is approximately 150-feet from the right-of-way, where only 72-feet is required. In addition, the monopine is a minimum of 209-feet from the nearest residences to the west, 232-feet to the north, 333-feet to the east and 172-feet to the south, where only 144-feet is required.
- 1.8** The proposed CCT location, specifically the leasing area of 10'x15' encroaches into the driveway creating a modification of the site plan approved for case BA 04-041. This modification of the approved site plan is not part of this SUP approval.
- 1.9** The CCT is an allowed use in R1-6 Zoning District subject to granting of a Special Use Permit. Consistent with the Commercial Communication Tower Guidelines adopted by the City Council May 19, 1997, the location of this CCT is compatible with and not detrimental to surrounding properties.

* * * *

**Board of Adjustment Meeting
July 13, 2010**

Case No.: BA10-043 (PLN2010-00159)

Location: 1515 South Power Road

Subject: Requesting a Special Use Permit to modify an existing Comprehensive Sign Plan in the C-2-DMP zoning district.

Decision: Approved

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-043 with the following conditions:

1. *Proposed rear sign does not exceed 80 square feet in area.*
2. *Compliance with all applicable City of Mesa codes and Regulations.*
3. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 5-0

Findings:

- 1.1 Typically signs of about 80 square feet have been found to be of sufficient size. Staff supports this request with the same stipulations.
- 1.2 An 80 square foot sign is appropriate for this building and does not contribute to sign clutter of the site.

* * * *

Board of Adjustment Meeting July 13, 2010

Case No.: BA10-044 (PLN2010-00016)

Location: 737 West Guadalupe Road

Subject: Requesting a Special Use Permit (SUP) to allow a Commercial Communication Tower to exceed the maximum height allowed in the C-1 zoning district.

Decision: Approved

Summary: Rulon Anderson represented the case and stated that he would be willing to move the monopalm to a location in the parking lot as requested by staff instead of the landscape area originally proposed.

Boardmember Hitchens asked Mr. Anderson if it would not be more pleasing to take out the asphalt and landscape around the monopalm and equipment cabinet. There was discussion regarding the location of the proposed landscaping.

Steve Schwartz, president of the La Jolla Cove Condo Assoc., spoke in opposition to the project. The condo development is adjacent to the site at the south property line. Mr. Schwartz questioned the close proximity to residential properties and the economic effect of the monopalm on the property values of the condos. He stated that while the site is zoned commercial the area surrounding it is mostly residential. He asked that another location be considered.

Mr. Anderson stated that other locations were considered, but Clearwire was unable to secure them. He further explained the need for service and coverage in this area. Chair McCray asked about Mr. Schwartz's concern regarding property values. Mr. Anderson stated that there is no evidence that there is a negative impact on real estate values caused by communication towers.

Mr. Sheffield provided additional comments and clarified that the site is zoned C-1.

Boardmember Hitchens asked if the relocation was previously discussed. Mr. Sheffield explained that there was some miscommunication regarding the location and that the conditions of approval stated in the staff report do not cover all the conditions recommended. Chair McCray asked if the conditions of approval needed to be revised, Mr. Sheffield responded that condition 10 should be modified to include that the tower and the lease area shall be moved out of the front setback.

Boardmember Hitchens asked about the loss of parking spaces when the tower and lease area are moved into the parking area. Mr. Sheffield responded that the site is over parked for commercial use.

Boardmember Labadie expressed his concerns with the visibility of the tower in the proposed location.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember von Borstel to approve BA10-044 with the following conditions:

Board of Adjustment Meeting

July 13, 2010

1. *Compliance with the drawings submitted dated May 24, 2010 (AZ-PHX5200F), except as modified by the conditions below.*
2. *The monopalm shall have a maximum height of sixty (65') feet to the top of the proposed monopalm trunk/pole, an additional 5-foot in height is allowed for the palm fronds.*
3. *The antennas shall be screened with a minimum of 55 palm fronds.*
4. *The antennas shall be painted to match the color of the palm fronds.*
5. *The antennas shall not exceed 4'-2" in length, 1'-1" in width, and 4" in depth.*
6. *The microwave dishes shall not exceed 2'-2" in diameter.*
7. *The antenna standoff assembly shall not extend more than 8" from the pole.*
8. *The monopalm tower or 'trunk' shall be clad material resembling the color and texture of a natural palm tree.*
9. *The 6-foot high CMU screen wall and the steel gates shall match the building in color.*
10. *The equipment lease area shall be relocated out of the front setback.*
11. *The operator of the monopalm shall respond and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
12. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 5-0

Findings:

- 1.1 This Special Use Permit (SUP) allows the placement of a 65' monopalm commercial communication tower within an existing group commercial center. The center is currently occupied by Mesa Public Schools with the Sunridge Learning Center. The applicant is installing a stealth monopalm design in order to minimize the visual impact on the surrounding residential condos and single family homes.
- 1.2 The applicant notified all property owners within 300 feet of the development and no comments or concerns were received.
- 1.3 The monopalm is 65 feet high. The array consists of three sectors, with three antennas and three microwave dishes. The antennas are 4' 2" in length, 1' 1" wide, and 4" deep, the microwave dishes are 2' 2" in diameter. A condition of approval was added requiring the antennas and microwave dishes be painted to match the color of the faux palm branches.
- 1.4 The applicant is installing a 6' x 10' equipment lease area surrounded by a 6' high screen wall.
- 1.5 The monopalm location partially complies with the Commercial Communications Towers Guidelines. The guidelines were established to provide guidelines for placement of communication towers. The applicant will maintain a 255'-7" and 437'-2" setback to the east and south property lines adjacent to the existing residential condos. These setbacks exceed the 2:1 setback ratio from residential districts suggested by the guidelines. The applicant will maintain 20' setback from Guadalupe Road and a 72'-11" setback from Extension Road where a 1:1 setback ratio or 65' setback from street right-of-way is suggested. The applicant indicated that they are trying to close a gap in service in this specific area. They previously submitted a request for a Special Use Permit for a monopine which was denied by the Board of Adjustment due to concerns from the neighbors. This location is the applicant's 6th option. It should be noted that the guidelines place primary emphasis on locating CCT on properties that are zoned for commercial or industrial purposes.
- 1.6 The approved SUP allows the height of the tower to be 65'. The additional height is needed in order

**Board of Adjustment Meeting
July 13, 2010**

to clear the height of existing buildings to provide service in the area. There are no existing structures within the area that provide an opportunity for the co-location of the array. The communication tower is compatible with and not detrimental to surrounding properties.

* * * *

**Board of Adjustment Meeting
July 13, 2010**

Case No.: BA10-045 (PLN2010-00165)

Location: 2348 West Catalina Avenue

Subject: Requesting a Variance to allow a residential addition to encroach into the required side yard in the R1-6 zoning district.

Decision: Continued to the August 10, 2010 meeting.

Summary: Dan Covington, the property owner, represented the case and stated that the structure was already there when he purchased the property in 2002. He then stated his justification points. Mr. Covington pointed out that there are similar structures on properties in the area. He further explained that in 2006 he applied for a permit to convert a carport into a garage and extend a front patio. Mr. Covington stated that during three inspections no mention was made that there was a violation of setbacks.

Staff member Angelica Guevara explained the details of the case and provided the staff recommendation.

Boardmember Stradling asked for clarification of the required 5' setback. He stated that he could not find justification.

Boardmember Hitchens clarified that the case was the result of a City Inspector's observation during an inspection for a different project at the site.

Chair McCray summarized the request and asked for comments from the Board. He reminded the Board of a previous request that was similar and was denied. He commented that this encroachment is for the entire 5' setback.

Boardmember Labadie explained that he was unable to find justification to allow the variance.

Boardmember von Borstel agreed with the previous comments and felt that a setback is needed. Unless the building could be moved over (not possible) the present location will not work.

Boardmember Hitchens asked if the applicant would be willing to make revisions to the structure to attempt to achieve some amount of compliance. Mr. Sheffield stated that staff would be willing to work with Mr. Covington on alternatives. Mr. Covington agreed and said he was willing to work on a compromise.

Motion: It was moved by Boardmember Stradling, seconded by Boardmember Labadie to continue BA10-045 to the August 10, 2010 meeting.

Vote: Passed 5-0

* * * *

Board of Adjustment Meeting July 13, 2010

Case No.: BA10-046 (PLN2010-00171)

Location: 25 North Extension Road and 755 West Pepper Place

Subject: Requesting a Substantial Conformance Improvement Permit to allow the expansion of an existing furniture bank in the C-3 zoning district.

Decision: Approved

Summary: This case was on the consent agenda and not discussed on an individual basis

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-044 with the following conditions.

- 1. Compliance with the site and landscape plans submitted, except as modified by the conditions below.*
- 2. The parking lot located west of Building C shall be eliminated and the area shall be incorporated into the front landscape setback.*
- 3. A bullnose shall be incorporated into the landscape setback along the east property line in the parking lot located south of Building C.*
- 4. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 5-0

Findings:

- 1.1** This Substantial Conformance Improvement Permit (SCIP) will expand the use of a non-profit organization to an existing 1,250 square foot building located at the southeast corner of Extension Road and Pepper Place. The organization currently uses Building A to store furniture and Building B as an office. The existing Building C will be renovated and used as additional office space. The site was developed prior to the adoption of current Code requirements and does not comply with regulations related to building and landscape setbacks. The SCIP allows deviation from these requirements, allowing the organization to utilize the existing structure as an offices
- 1.2** Bridging AZ is a nonprofit organization dedicated to providing basic furniture and household goods to economically disadvantaged individuals and families living in the community. The organization works with case managers of those enrolled in social service programs to ensure that they are provided with the basic necessities for a home. Bridging AZ has partnered with various social service programs that assist with domestic violence, homelessness, job training, life skills, mental illness and poverty. As the facility is not open to the public, individuals and families must work through a case manager to utilize the service.
- 1.3** The applicant indicated that they intend to provide landscaping in quantities and sizes specified by the Zoning Ordinance. However, there is little to no landscaping adjacent to Buildings A and B due to significantly reduced setbacks that cannot support vegetation. In addition, these are high traffic areas that are used for loading and have very little visibility from Extension Road. As a result, new landscaping will be limited to areas surrounding the proposed expansion, which is primarily around Building C. The landscape plan identified trees and shrubs in excess of current Code requirements,

Board of Adjustment Meeting
July 13, 2010

which compensates for the reduced landscape setbacks.

- 1.4** A total of 22 parking spaces are provided where only 18 are required. The applicant provided three parking spaces in front of Building C that are of some concern. After reviewing the parking configuration, Transportation determined that it cannot support these requested spaces because they will require the driver to back onto Extension Road. While the applicant provided a place to reverse from the southernmost parking space, it was felt that the awkward angle and lack of distance are not sufficient in enabling the driver to avoid backing onto Extension Road. In addition, this area is located in the right-of-way, and it is against the policies of Transportation to allow vehicles to maneuver in this manner in the public right-of-way.
- 1.5** Given that the parking spaces provided in front of Building C have been deemed impractical, the area will be incorporated into the front landscape. This will enhance the property significantly and will turn an otherwise unusable space into attractive streetscape. While three parking spaces are eliminated, the development will still meet current Code requirements by providing a total of 19 spaces.
- 1.6** An additional parking area is provided south of Building C. While the parking space located at the southeast corner of the lot is accessible, there is a challenge in reversing from the space, as the driver has to back straight into the northeastern parking space. This issue is resolved by incorporating a bullnose design into the landscape strip located along the east property line. This eliminates the dead-end parking and allows the driver to execute a slight turn when reversing, enabling them to leave the space with more ease. Therefore, a condition has been included to incorporate this design along the east property line.
- 1.7** In addition to the site modifications, the applicant is making significant improvements to Building C so that it can better meet the needs of the organization. The interior will be renovated to accommodate a conference room and several offices, the building's exterior will receive new stucco, parapets and paint. Overall, these modifications will improve the appearance of the property and will have a positive impact on the surrounding neighborhood.
- 1.8** The subject property qualified for a SCIP in that the existing buildings would require demolition and reconstruction in order to comply with current Code requirements. The applicant will achieve substantial conformance with current Code requirements by providing landscape where possible, including additional parking spaces to meet the needs of the organization, and by resurrecting a vacant building with new design features. As a result, the expansion is compatible with, and not detrimental to, adjacent properties and neighborhoods.

* * * *

Board of Adjustment Meeting July 13, 2010

Case No.: BA10-047 (PLN2010-00192)

Location: 2321 East Birchwood Ave

Subject: Requesting a Variance to allow an addition to encroach into the required side yard in the R1-6 zoning district.

Decision: Continuance to the August 10, 2010 meeting.

Summary: Nick Martineau represented the case and stated that he built the addition to use as a tool shed. He further stated that the lot is irregular and he has various other structures already existing that limit his options.

Dale Grafe, a code enforcement officer, stated that he was the inspector that inspected the project for building without a permit. Mr. Grafe stated that the request would meet building and fire code approval and would be visually acceptable. Mr. Sheffield commented that the Building and Fire codes are not pertinent to this public hearing and that the applicant must justify the request using the Zoning Code.

Tom Ellsworth presented the staff report and recommendation. He also provided the Board with aerial images and possible locations to place a tool shed. Chair McCray asked Mr. Ellsworth if the configuration of the lot limited the possibilities for other locations. Mr. Ellsworth commented that was sufficient room in the rear one-quarter of the lot.

Boardmember Stradling asked about the degree of encroachment into the setback. He stated that he was unsure if the applicant could modify enough to come closer to compliance.

Boardmember Labadie stated that he would like to find a way to work out a solution, but could find nothing short of moving the shed to a different location.

Chair McCray agreed that relocation was most likely the only solution.

Boardmember Hitchens said he viewed street side setbacks different and could find no alternative, but was willing to let the applicant work on modifications.

Mr. Sheffield stated that staff would be willing to work with the applicant and work toward an improved site plan with accurate dimensions.

Motion: It was moved by Boardmember Stradling, seconded by Boardmember Labadie to continue BA10-047 to the August 10, 2010 meeting.

Vote: 5-0

* * * *

**Board of Adjustment Meeting
July 13, 2010**

Case No.: BA10-048 (PLN2010-00193)

Location: 660 West 8th Street

Subject: Requesting a Variance to allow a reduction in the side yard setback in the R-3 zoning district.

Decision: Approved with conditions.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-048 with the following conditions:

- 1. Compliance with the site plan submitted, except as modified by the conditions below.*
- 2. A side yard setback of 5-feet shall be maintained along the east property line.*
- 3. A side yard setback of 10-feet shall be maintained along the west property line.*
- 4. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: 5-0

Findings:

- 1.1** This variance allows two existing tool sheds, one a 140 s.f. metal lawn tool shed and the other a 280 s.f. tool shed, to remain in their current location on the property. Code requires a side yard setback of 10-feet in the R-3 zoning district, the smaller metal tool shed has a setback of 8-feet and the larger tool shed has a setback of 5-feet.
- 1.2** The home was constructed in 1952, and the neighborhood became one in transition, where some properties remained single residences and others have been expanded to accommodate multiple residences. The subject property is in fact bordered by both single and multiple family residences, adding to the unique character of the community. At 1,248 square feet, the house itself remains on the smaller side of homes in the neighborhood, mostly as a result of the several multiple residences on properties of the same size. As this is an older home, it was not constructed with a carport and remains without such an amenity. As a result, the applicant utilizes both the sheds that are attached to the rear of the home for storage.
- 1.3** The property was cited for a code violation (reference COD2010-00003), which was initiated due to the amount of storage on the property.
- 1.4** Since the beginning of the year, the applicant has made a significant effort to clean up the rear yard area and installed a fence to screen trailers that are stored in the rear yard. The applicant will construct a new 1,080 s.f. garage that complies with all current Code requirements related to location, area and height. Approval of the variance allows the permit for the new structure to be issued.

* * * *

Board of Adjustment Meeting July 13, 2010

Case No.: BA10-049 (PLN2010-00205)

Location: 33 West Broadway

Subject: Requesting: 1) a Variance to allow reduced landscape material quantities in the front yard; and 2) a Special Use Permit for Comprehensive Sign Plan; both in the TCB-2 and M-2 zoning district.

Decision: Approval

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Labadie to approve BA10-049 with the following conditions:

1. *Compliance with the sign and landscape plans submitted, except as modified by the conditions below.*
2. *The development shall be permitted attached signage consistent with current Code requirements.*
3. *A Sign Agreement shall be completed prior to applying for sign permits.*
4. *Compliance with all requirements of case ZA10-04.*
5. *Compliance with all requirements of case ZA07-44TC.*
6. *Compliance with all requirements of the Building Safety Division in the issuance of sign permits.*

Vote: 5-0

Findings:

1.1 AJ's Custom is a motorcycle paint shop specializing in the customization of motorcycles and hot rods. The business was recently permitted to locate on the property when it obtained a Substantial Conformance Improvement Permit (SCIP), which was required due to a change in occupancy. The SCIP allowed all existing buildings to remain on the property with reduced building and landscape setbacks, but stipulated for the removal of an existing 16-foot high nonconforming sign. This variance brings the sign closer to conformance by replacing it with a 12-foot high sign, and allows for the replacement of trees along Broadway Road with low-lying shrubs.

1.2 The existing development is located at the southwest corner of Broadway Road and Drew Street and was developed in the 1930s. The property is on the fringe of Town Center, with the boundary dividing the development so that the southern portion is not within the Town Center Redevelopment area. The east side of Drew Street is not considered downtown Mesa, and new construction is to comply with the conventional development requirements that apply to most properties in the City, while the northern portion of the subject property is located within the Town Center area and is required to comply with all requirements unique to the area.

1.3 The applicant has been approved for a Special Use Permit to establish a Comprehensive Sign Plan (CSP). Currently, there is one existing 16-foot high monument sign located adjacent to Broadway Road. While it is located out of the 40-foot right-of-way, it is within the 65-foot future width line.

In addition, the existing pole sign lacks embellishment and does not comply with current design requirements related to monument signs.

Board of Adjustment Meeting July 13, 2010

1.4 The property where the monument sign is located is within the Town Center Redevelopment area, the sign would be allowed a maximum height of 5-feet. If the property was not included in the Town Center area, it would be permitted a 12-foot high sign.

1.5 The monument sign has an overall height of 14.25-feet and an area of 32.5 square feet. The sign copy is not at a height of more than 12-feet, the additional 2.25-feet includes embellishment consistent with current Code requirements. In addition, the current pole sign is located beyond the right-of-way, but in the future width line. As a result, the monument sign will be constructed in the same location as the existing sign provided that a Sign Agreement is completed prior to submitting for sign permits.

1.6 The applicant did not provide information concerning the attached signs for this development. Applying development standards typical of properties not located in Town Center to this property, it is reasonable to allow attached signs in quantity and area consistent with current Code requirements. Given the dimensions of the existing building on the property, the development is permitted a total of three attached signs with an aggregate area of 160 square feet.

1.7 The subject development is unique in that it is located on the fringe of Town Center. The property was constructed prior to the implementation of Town Center development regulations and has developed in a manner similar to other automotive-related uses outside of the downtown area. Given these characteristics, the business is provided with the same sign allowances as similar businesses located outside of the Town Center area. The approved signage is consistent with current Code requirements for commercial developments and is compatible with, and not detrimental to, surrounding properties.

1.8 A variance was also approved to allow the replacement of required trees in the landscape setback with shrubs. The landscape setback is located along Broadway Road and is 18-feet wide. Although current Code requires a landscape setback of 25-feet adjacent to Broadway Road, this deviation was approved through a Substantial Conformance Improvement Permit (SCIP) earlier this year. (reference ZA10-004)

1.9 In addition to the modifications requested earlier this year, the subject property was granted several variances in 2007 (reference ZA07-44TC), which resulted in the approval of a landscape plan. The landscape plan will continue to apply to the property, with the exception of the frontage along Broadway Road.

1.10 The previously approved landscape plan required a total of 18 trees and 53 shrubs to be located in the Broadway Road landscape setback, while current Code would require 16 trees and 51 shrubs. The applicant will substitute all required trees for shrubs, resulting in a total of 71 shrubs.

1.11 As justification, the applicant noted that this property does not have a traditional downtown setting that is generally associated with its zoning district, and that low-level landscaping is more typical of an urban setting and more appropriate for this property.

1.12 The subject property is unique in that it is located in the downtown area, but retains characteristics commensurate with similar automobile related developments elsewhere in Mesa. While the development does not necessarily fit the profile for downtown development, neither do the properties adjacent to it. The development around this property is generally industrial and lacking landscape, especially where trees are concerned. While a few existing trees will remain in the landscape setback adjacent to Broadway Road, the inclusion of additional trees would appear

Board of Adjustment Meeting

July 13, 2010

out of place with surrounding properties. However, the streetscape will be significantly enhanced once the additions have been installed. Therefore, the deviation related to landscape with the recommended conditions is compatible with, and not detrimental to, adjacent properties or the surrounding neighborhood.

Board of Adjustment Meeting July 13, 2010

Case No.: BA10-050 (PLN2010-00204)

Location: 1 – 270 West Main Street

Subject: Requesting a Special Use Permit to allow a Special Event to exceed the number of events allowed in a calendar year in the TCC zoning district.

Decision: Continuance to the August 10, 2010 meeting.

Summary: Marla Richards presented the case and stated that she has an existing 1st Friday event. Chair McCray asked Ms. Richards if the event has been successful and if they have received any complaints. Ms. Richards stated that the event is going well and that they have had complaints from a business on Main Street that is an events center.

Boardmember Labadie asked her to explain how the proposed event works and if they included food vendors. Ms. Richards stated that the event is auto related and will close Main Street from Center to Robson on the third Friday of the month.

Glen Blackmore spoke in opposition and stated that he represents 90% of the business owners in the 200 block of west Main Street. He stated that the street closures are negatively affecting the business owners on Main due to the fact that the street closure extends to Country Club, but the event activities end at Robson. He asked for clarification of the Main Street closure and asked that the event be extended to Morris. He further stated that many of the property tenants did not receive notification because many of the property owners live out of state. He also requested that the food vendors be located away from the existing restaurants and that signage, informing event visitors of parking in the rear, be installed. He also voiced concern that DMA is not being included in discussions and planning regarding downtown events; and requested that they be included. Boardmember Labadie asked if he preferred to be included in the event, Mr. Blackmore stated that he preferred inclusion.

Mr. Sheffield suggested a continuance to allow the applicant to notify and communicate with the business owners who are affected by the event.

Chair McCray agreed, but determined he wanted to hear from members of the public who wished to voice their concerns an opportunity to speak. Public comment followed.

Nunthaporn Treekamol stated she supports the 2nd Friday events that do not close the street, but that the closure of the street and the food vendors negatively affected her business.

Crystal Russell stated that she did not receive notification. She further stated that the downtown events are not well planned or managed and should include DMA involvement. She also stated that there should be proof of insurance required. She also stated that her property has been damaged by event attendees.

Jim Gleason stated that he supports the downtown events, but does not support the closure of the street. He further commented that the events have not been well planned. His reception business is being affected on Friday and Saturday nights due to the ill

Board of Adjustment Meeting

July 13, 2010

placement of food/beer vendors and music entertainment in front of his business. He is opposed to another auto-related event that creates excessive noise on Main Street and disrupts the existing businesses.

Laurent Teichman stated that he has been in business in downtown Mesa for 20 years and said he was originally excited for the events. Once they began he was disappointed with the event mismanagement. Mr. Teichman further stated that the event applicants have been very difficult to work with and fail to resolve issues. He supports having events in downtown with guidelines that are appropriate for the existing business owners and the event applicants. He further stated that in previous years the City of Mesa assisted in facilitating the events.

Terri McCook stated that she has been in downtown Mesa for over 30 years and said that the street closure negatively impacted her business. Her parking area was full of event parking, leaving no place for her customers to park. She said she was never notified of the event, of possible street closures nor did the applicant communicate very well regarding what type of event was being proposed. She also wants there to be better signage for available parking areas.

Gannon Nikolich stated that his pizza business benefits from the events, but understands that placement of event items is a problem. He would like to see better communication between event planners and the local business owners. He also stated he would like to see the event extend to Morris so that all affected businesses can benefit from the events.

Ms. Richards stated that many of the comments were related to the 4th of July event and they were not in control of that event that closed Main Street. The event she sponsors closes Main Street from Center to Robson and the hope is to eventually close to Morris as the event grows. She also stated that they have tried to use good judgment when locating event activities.

Motion: It was moved by Boardmember von Borstel, seconded by Boardmember Labadie to continue BA10-050 to the August 10, 2010 meeting.

Vote: 5-0

Board of Adjustment Meeting July 13, 2010

Case No.: BA10-051 (PLN2010-00198)

Location: 2049 North Ashbrook

Subject: Requesting: 1) a Variance to allow an encroachment into the rear yard; and 2) a Special Use Permit for Accessory Living Quarters; both in the R1-9 zoning district.

Decision: Denied

Summary: Barry Gendelman presented the case and read his justification statement to the Board that included his desire to live close to his family.

Sally Walker, a neighbor, opposed the project and gave a brief history of the property. She was concerned that the property will become a rental and affect the nearby property values. She stated that she does not support an apartment in an R1-9 zoning district.

Greg Pender spoke in opposition and stated that the structure is not merely a 'granny flat' but another complete house on a single family lot.

Tricia Schaffer spoke in opposition and said that she was not notified. She further stated that the applicant does not own the house and is also concerned that the property will become an apartment. She commented that this request had been heard before and would like to see the structure removed and the R1-9 zoning be enforced.

Brandice Elliott provided the staff report and recommendation, noting the requirements for both a Special Use Permit for an Accessory Living Quarters and the variance. She indicated that an Accessory Living Quarters could be located within the buildable envelope of the lot without the need for a variance, and provided additional details and clarification regarding the case to the Boardmembers.

Boardmember Labadie asked if the new Zoning code had any changes that would affect this property in the future. Mr. Sheffield commented on the new code, indicating that a variance would still be required for this request under the new Ordinance.

Boardmember Hitchens asked for clarification of the original permitted project, to which Ms. Elliott explained that the original structure was permitted as a recreation area. It was further clarified that while the previous property owner initially modified the structure without the appropriate building permits, she did work with City Staff to eventually make the structure legal and obtained a permit to allow a structure without livable area.

Chair McCray commented on the request, suggesting that it is unlikely that this request could meet the requirements for a variance, even if the structure was reduced in size.

Board member Stradling commented that there is no opportunity to say yes to this request.

Boardmember Labadie stated that he could find no justification to approve the request and motioned to deny.

Motion: It was moved by Boardmember Labadie, seconded by Boardmember von Borstel to

**Board of Adjustment Meeting
July 13, 2010**

deny BA10-051.

Vote: Passed 5-0

Findings:

- 1.2** The applicant requested both a Special Use Permit (SUP) and variance to allow the conversion of an existing structure located in the rear yard of the property into an Accessory Living Quarters (ALQ). The primary dwelling was constructed in 1985, while the accessory structure was constructed in 2006. Previous Code Compliance history associated with the accessory structure indicated that the prior property owner constructed the structure illegally with the purpose of renting out individual rooms to tenants. At one point, the structure was divided into three separate units, each individually accessible. However, after several complaints from neighbors, the property owner obtained a building permit to allow an accessory structure without livable area. Instead of individual units, the structure was renovated into an open recreation area with an office to meet current Code requirements.
- 1.2** The project consisted of remodeling the interior of the same structure into an ALQ, which included 1,344 square feet of livable area. A SUP was required because the structure was not directly accessible from the primary dwelling, while a variance is required because the livable area is located in the rear yard setback.
- 1.3** Although the ALQ is not directly accessible from the primary dwelling, a SUP could have been supported because the structure met all requirements prescribed to ALQ and would have been architecturally integrated with the primary dwelling. However, the inherent problem with this particular request was in the justification for a variance.
- 1.4** The variance would allow the ALQ to encroach into the rear yard setback. While a setback of 25-feet is required, a separation of 5-feet would have been provided. To justify the need for a variance, the applicant noted that it is necessary to live with his daughter and her family, who will occupy the primary dwelling, in order to cope with many health ailments. In addition, the applicant noted that the structure, approved as an ALQ, would have no visual or aural impact on surrounding properties, as there are several trees that line the rear property line. The appearance of the structure would be improved as well, ensuring a positive impact on adjacent properties. It was also noted that the applicant and his family would be a stable addition to the neighborhood, as they intend to stay for many years.
- 1.5** In reviewing the request for a variance, it was determined that there was not adequate justification to recommend its approval. The property is of similar size, shape and orientation as other properties in the neighborhood. There are several other options for constructing an ALQ on the property that would not require a variance, such as locating it in the buildable area or attaching it to the primary dwelling. As a result, there are no unique circumstances that apply to the land that justify the need for a variance. While the structure was constructed by the previous owner illegally, building permits were eventually obtained, rendering the structure legal. The need to convert the existing structure into an ALQ was created by the current property owner, and cannot be considered a special condition.

**Board of Adjustment Meeting
July 13, 2010**

A. Other Business:

Chair McCray asked when the Board would determine who would be the next Vice-Chair due to the resignation of Scott Thomas. Mr. Sheffield replied that the Board would entertain nominations and vote at the August 10th 2010 meeting.

Respectfully submitted,

Gordon Sheffield, AICP
Zoning Administrator

Minutes written by Mia Lozano, Planning Assistant

G:Board of Adjustment/Minutes/2010/July